

REMARKS

Claims 1, 2 and 4-17 are pending in the present application.

In the outstanding Office action dated September 9, 2005, claims 1, 2 and 4-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Marcade (5,683,449). In so rejecting the claims, the Examiner stated that the Marcade reference does not explicitly disclose "prefabricated holes, however, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide prefabricated holes as recited in the claims as this configuration is only another choice of design. In addition, not much patentability can be given for the manner of providing holes in the device claims because the device is identical whether the holes are prefabricated or not." Moreover, the Examiner stated that because the barbs of the Marcade patent are "sharp and long while the graft layers are thin, inherently, the barbs will extend through graft layers to strongly secure two stent-graft components together."

It is respectfully submitted, however, that independent claim 1 and dependent claims 2 and 4-17 are allowable over the cited reference. Significantly, each of the pending claims recite a modular graft device including a plurality of pre-fabricated holes, at least one pre-fabricated hole being in alignment with one radially extending component. Firstly, it is respectfully submitted that the inclusion of pre-fabricated holes in the recited modular endovascular graft device is not a mere "choice of design" since for example, such structure would permit the use of radially extending components lacking the sharpness required to create their own path through a wall of a graft component. Additionally, it is respectfully submitted that the device recited in the claims is not identical to that of the cited art "whether the holes are prefabricated or not" since a device lacking pre-fabricated holes cannot logically be considered to be identical to a device including pre-fabricated holes.

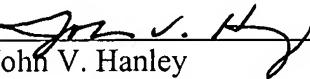
Furthermore, it is respectfully submitted that a *prima facia* case of obviousness has not been presented by the Examiner. Notably, MPEP § 2143.01 provides that "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination" and that "A statement that modifications of the prior art to meet the claimed invention would have been 'well within the ordinary skill of the art' at the claimed invention was made' because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient

to establish a *prima facia* case of obviousness without some objective reason to combine the teachings of the references." Clearly, the cited reference does not contemplate providing a graft device with the pre-fabricated holes and no evidence has been provided to establish that one of ordinary skill in the art would have included pre-fabricated holes in the device disclosed by the cited reference. This is especially true here where the Examiner has pointed out that the Marcade reference teaches barbs which are "sharp and long" so that they extend through graft layers. Therefore, it is believed that each of pending claims 1, 2 and 4-17 are allowable over the cited art.

CONCLUSION

Applicants have attempted to completely respond to the rejections set forth in the outstanding Office action. In view of the above remarks, Applicants respectfully request that the application be reconsidered, the claims allowed and the application passed to issue.

Respectfully submitted,
FULWIDER PATTON LLP

By: 
John V. Hanley
Registration No. 38,171

JVH/kst
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
111640.1